APPENDIX

Excerpts from Trial Minutes

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

Cr. #43769

UNITED STATES OF AMERICA

vs.

PRIVATE BRANDS, INC., and FRANCIS P. CAREY,
Defendants.

Brooklyn, New York,
January 27, 1955.

Before:—

HONORABLE CLARENCE G. GALSTON, U. S. D. J.

APPEARANCES:

LEONARD P. MOORE, Esq.,
United States Attorney for the
Eastern District of New York,
By RICHARD C. PACKARD, Esq.,
Assistant United States Attorney,
For the United States of America.

JEREMIAH DRISCOLL, Esq.,
Attorney for Defendants.

Excerpts from Trial Minutes

The Clerk: Private Brands, Inc. and Francis P. Carey.

Mr. Packard: May it please the Court, the Government is ready for trial.

Mr. Driscoll: May it please the Court, the defendants are not ready. I would like an adjournment of three or four weeks. I told the District Attorney that the District Attorney has in his possession a lot of the corporation's files which I have to have for preparation for trial. I spoke to Mr. Packard last week when he notified me that it was going to be on for the 24th.

He said I could come over and sit in his office and look at them.

I think I am entitled to have the records or photostats of the records, rather than at his request come over and sit in his office for a couple of days.

The Court: I agree with him. You can come over and look at them here.

Mr. Driscoll: All right. That will take me, as far as I know, maybe two or three days just to look at those files and make copies for my own information and preparation, and there are certain documents that my clients are trying to find. I don't know whether they have them or whether the Government has these particular files that I have to have and see.

The Court: What is the nature of the indictment?

Mr. Packard: It involves, briefly, fraud in connection with a Government contract which the defendant corporation had with an armed services agency.

The Court: When was the indictment filed?

Mr. Packard: The indictment was filed on December 8th before Judge Inch, your Honor, and at that time the defendant appeared and Mr. Driscoll, his attorney, appeared and I stated in open court that the Government

would be ready and expected to go to trial on January 24th.

At that point, Judge Inch adjourned the case until the 24th of January for trial. Trial notices were sent out on the 14th of January and it was subsequent to that that Mr. Driscoll telephoned me and requested an adjournment. I said that I would not acquiesce in the request.

Then on Wednesday, the 19th, in the afternoon Mr. Driscoll telephoned me. I was out, so he talked to my secretary and said that we had certain corporate records which he told her he needed to examine.

I telephoned Mr. Driscoll the next day and told him that he was at liberty to come to my office at any time and examine the records as long as he wished, and I told him that I would even be there myself and would have the records available at any time during the weekend, if that was more suitable to him.

Therefore, if your Honor pleases, I believe that the request for an adjournment is without merit and I respectfully oppose it.

The Court: I agree with you. If you can't go on today, I will set it for tomorrow.

Mr. Driscoll: Well, Judge, I couldn't make copies of all these files.

The Court: You don't have to make copies. You can make memoranda, and the delay has been wholly your fault, not the Government's.

Mr. Driscoll: If your Honor please, I made a motion to inspect the grand jury minutes which he didn't mention. I made a motion to inspect the grand jury minutes. It was argued before Judge Inch, as I recollect—I may

be wrong on that—and that was denied, and I was served with an order on the 7th of January. I won't go into that, but——

The Court: Well, Mr. Packard, you should be willing to grant a reasonable adjournment.

Mr. Driscoll: That is all I am asking for.

The Court: What do you suggest?

Mr. Packard: Well, as I say, the Government is ready today. Your Honor just suggested that tomorrow might be a suitable date. I believe that that would be considered—I would consider that reasonable, but any adjournment beyond tomorrow——

The Court: Well, tomorrow is Friday.

I will set it for Monday for trial, Mr. Driscoll.

Mr. Driscoll: All right, your Honor.

I will go over today, Mr. Packard. Will you be in your office on Saturday if I have to go in and look at your records on Saturday?

Mr. Packard: Yes, Mr. Driscoll.

The Court: January 31st.

Mr. Packard: May I respectfully suggest, your Honor, that the jury be selected?

The Court: No, we have got other cases. I can't do that. There may be another case ready.

Mr. Brisach: There will be no other case ready for trial today.

The Court: Well, how about tomorrow?

Mr. Brisach: No, sir; the calendar has been kept clear for this particular case.

The Court: I think we better set it over until Monday so as to give the attorneys an opportunity to see the corporate records.